IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant:	)	Art Unit: 2188
	)	
Serial No.: 10/764,946	)	Examiner: Doan
	)	
Filed: January 26, 2004	)	HSJ920030237US1
	)	
For: SYSTEM AND METHOD FOR SELECTING COMMAND FOR EXECUTION IN HDD BASED ON BENEFIT	))))	June 1, 2006 750 B STREET, Suite 3120 San Diego, CA 92101

RESPONSE TO TELEPHONE INTERVIEW

Commissioner for Patents
Alexandria, VA

Dear Sir:

The telephone interview of today's date is gratefully acknowledged. It is believed that agreement has been reached at least on Claims 7 and 10 as amended below.

Claim 1 was discussed in the context of the teachings of Clegg et al., col. 2, lines 25-30 and lines 45-65. Applicant has carefully reviewed these teachings, and believes that Clegg et al. discusses the advantages of writing sequential data records into a disk cylinder before moving to another cylinder because arm movement is reduced, lines 25-30. Also, Clegg et al. teaches that read requests addressed by linearly increasing block number advantageously has low latency when the requests are to a single disk, to data on the same or consecutive tracks, since consecutive blocks are more likely to exist in the same cylinder, lines 45-50.

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Thus, these sections of Clegg et al. indeed teach the advantages of reading and writing sequential blocks, but not in a way that implicates the length of the blocks, much less the length of a pipe (defined in the specification to be the commands in the queue of the controller, page 6.) In contrast, and leaving aside for the moment whether Clegg et al. actually determines a throughput benefit, Claim 1 explicitly requires more than what is contemplated by Clegg et al., namely, determining a throughput benefit based at least in part on a pipe *length*. Clegg et al. contemplates operations based only on data proximity, not on data length. That close data inherently has a "length" does not mean that Clegg et al. actually uses the length in its calculations as is otherwise recited in Claim 1, and indeed Clegg et al. evidently does not use the length of anything, but rather only proximity.

Accordingly, it is respectfully submitted that Clegg's teaching of using data proximity to read and write regardless of the amount or length of the data manifestly is not the same thing as using the length of anything, much less a pipe of commands. That is, because "proximity" does not equal "length", Claim 1 is patentable.

With respect to the changes in the claims from "and" to "or" in certain instances, Applicant has been made aware of Superguide Corp. v. DirectTV Enterprises, Inc., 358 F.3d 870 (Fed. Cir. 2004) in which a claim recitation of "at least one of A, B, C, and D" was held to minimally require at least one element from each of the categories A, B, C, and D, not one or more elements from one or more categories as intended in the present case, with the Federal Circuit noting that for the latter interpretation to hold, the conjunctive "or" should be used. Accordingly, the present amendment is believed to reconcile, with the Superguide case, both Applicant's intended claim scope and what Applicant believes to have been the examiner's understanding of the claimed invention when examination was conducted.

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The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

Respectfully submitted,

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JLR:jg

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